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INFO RUEHBJ/AMEMBASSY BEIJING 2687
RUEHMO/AMEMBASSY MOSCOW 0497
RUEHUL/AMEMBASSY SEOUL 3432
RUEHKO/AMEMBASSY TOKYO 5043
RUEAWJA/DEPT OF JUSTICE WASHINGTON DC
RHEHNSC/NSC WASHDC

C O N F I D E N T I A L HONG KONG 002021

SIPDIS

STATE FOR EAP/CM, EAP/RSP, EAP/K, EEB/ESC; TREASURY FOR
GLASER/FOWLER; DOJ FOR SCHWARZ/WEBER

E.O. 12958: DECL: 11/03/2033

TAGS: EFIN ECON PREL

SUBJECT: HKMA PROPOSES REVOKING DELTA ASIA CREDIT'S BANKING
LICENSE

REF: A. HONG KONG 459

1B. 07 HONG KONG 2430

1C. 07 HONG KONG 2567

1D. 07 HONG KONG 2904

Classified By: Acting E/P Chief Jim Mullinax, Reason 1.4.b/d

11. (U) Summary: The Hong Kong Monetary Authority (HKMA) announced October 24 that it had revoked the appointment of the government-installed manager of Delta Asia Credit (DAC) and was proposing revocation of DAC's authorization as a deposit-taking company. DAC now returns to control of its shareholders, led by Banco Delta Asia (BDA) Chairman Stanley Ao, and has thirty days to appeal to Hong Kong's Chief Executive and Executive Council. In the meantime, the bank remains effectively inoperable as restrictions preventing DAC from taking deposits remain in place. End Summary.

12. (C) Comment: The legal process for shutting down BDA's Hong Kong subsidiary DAC will still take several months at least, potentially offering Stanley Au a media platform to again criticize the U.S. government's decision to designate BDA and the Hong Kong authorities handling of DAC. The HKMA has been preparing its legal case for more than a year with the goal of minimizing BDA's opportunity to land any telling criticisms of the government's decisive action to wrest control of DAC away from Ao. Despite the Hong Kong government's concern about negative press attention, we think in the current political climate in Hong Kong it is unlikely that the media or other activists will rush to defend a bank accused of handling dirty money. End Comment.

13. (U) The HKMA announced Friday, October 24 that it had revoked the appointment of KPMG's Paul Brough as manager of Delta Asia Credit (DAC). The company has been under HKMA-appointed management since the U.S. Treasury announced in September 2005 that its parent company, Macau-based Banco Delta Asia (BDA), had been designated as an institution of "primary money-laundering concern" for its dealings with North Korean money launderers. As a subsidiary of BDA, DAC was barred by the HKMA from accepting deposits, the board of directors was suspended, and international accounting firm KPMG was appointed as the managing operator. While DAC officially remained open for business, with no depositors and no other banks willing to process DAC payments, the bank was rendered inoperable.

14. (C) HKMA Executive Director of Banking Supervision Nelson Man noted that the decision to revoke the KPMG management contract and propose revocation of DAC's deposit taking

authority had been under consideration for a long time. HKMA has been proceeding cautiously as they expect BDA's Chairman, Stanley Au, will file legal action against the HKMA decision in Hong Kong courts. With most depositors already repaid and minimal transaction balances remaining in the bank, it is no longer necessary to have outside management in place to protect depositor interests. KPMG's monthly management fees are several times the net worth of the bank, said Man. The original management has now officially returned, but DAC is still prohibited from accepting deposits or engaging in any business activity without explicit HKMA approval.

¶5. (C) Man said the dismissal of the KPMG manager served to eliminate a potential conflict of interest and avoid legal questions as HKMA moves forward with steps to close DAC. That process will still take some time. If he chooses to appeal the proposed revocation, DAC's newly re-appointed Chief Executive David Lau must file the appeal to the Hong Kong Chief Executive and Executive Council within 30 days. The CE will then appoint a panel of experts to request submissions from both sides before recommending a decision to the Executive Council. That decision may then be appealed for judicial review before taking effect. Although the process could drag on indefinitely, Man averred that the Hong Kong government believes they are now on solid legal footing and will push the revocation forward. On receiving the announcement, a Banco Delta Asia spokesman reportedly told press in Macau that the Group would appeal the proposed revocation.

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